

NORFOLK, VIRGINIA

ACTION OF THE COUNCIL

TUESDAY, DECEMBER 8, 2015 – 7:00 P.M.

President Fraim called the meeting to order at 7p.m.

Prayer offered by Vice Mayor Angelia Williams Graves, followed by the Pledge of Allegiance.

The following members were present: Mrs. Graves, Mrs. Johnson, Mr. Protogyrou, Mr. Riddick, Mr. Smigiel, Dr. Whibley, Mr. Winn and Mr. Fraim.

President Fraim moved to dispense with the reading of the minutes of the previous meeting.

Motion adopted.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

CERTIFICATION OF CLOSED MEETING

A Resolution entitled, "A Resolution certifying a closed meeting of the Council of the City of Norfolk in accordance with the provisions of the Virginia Freedom of Information Act," was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

CEREMONIAL MATTER

- Peggy Haile- McPhillips, City Historian and Tom Jones, Friends of the Library presented Council the 2016 Historical Calendar of Norfolk.
- President Fraim read a Proclamation proclaiming December 11, 2015 as **Youth in Government Day**. Ed Matthews, with Recreation, Parks and Open Space and members of the Norfolk Youth Council accepted the proclamation.

PUBLIC HEARINGS

PH-1

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of the **City Planning Commission**, to modify Appendix B in the Table of Contents within *planNorfolk2030* to add the **City of Norfolk Bicycle and Pedestrian Strategic Plan**, to replace Map T-7, Existing and Proposed Bike Facilities, and to modify several actions in the Transportation chapter pertaining to bicycling.

Thereupon, an Ordinance entitled, “An Ordinance to amend the City’s **General Plan**, *planorfolk*, 2030, **SO AS TO** adopt and incorporate the “City of Norfolk Bicycle and Pedestrian Strategic Plan,” was introduced in writing and read by its title.

The following persons spoke concerning the advantages of moving forward with the plan.

Mark Hoecker, 4718 Pleasant Avenue, Michael Carhart, 616 Rhode Island Avenue, Unit #30 and Ellis James, 2021 Kenlake Place.

The following persons were present to support this matter but did not speak:

Mary Miller, 223 East City Hall Avenue and Greg Reck, 219 Granby Street.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-2

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **East Coast Appliances**, for a change of zoning from I-2 (Light Industrial) District to C-2 (Corridor Commercial) District at **5671 Raby Road**.

Thereupon, an Ordinance entitled, “An Ordinance to rezone property located at **5671 Raby Road** from I-2 (Light Industrial) District to C-2 (Corridor Commercial) District,” was introduced in writing and read by its title.

The following persons spoke on this matter.

Rob Nicholson, the applicant, 1317 N. Bay Shore Drive and Eric Garner, 242 Mustang Trail, Suite 8, Virginia Beach, spoke in support.

Brad Martin, 448 Viking Drive, Virginia Beach, spoke in opposition.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-3

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of the **City Planning Commission**, for a text amendment to **Section 4-0.5, ‘Day Care Homes,’** and **Table 4-A, “Table of Land Uses”** in Residential Districts of the Zoning Ordinance of the City of Norfolk, 1992, to allow day care homes on lots not less than 5,000 sq. ft. in area by **Special Exception**.

Thereupon, an Ordinance entitled, “An Ordinance to amend **Section 4-0.5 and Table 4-A of the Zoning Ordinance** of the City of Norfolk, 1992, **SO AS TO** allow day care homes on lots at least 5,000 sq. ft. in area but less than 6,000 sq. ft. in area by **Special Exception**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

PH-4

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **St. Paul's Apartments, L.P.**, for a change of zoning from C-2 (Corridor Commercial) District to D-2 (Downtown Regional Center) District on property located at **523-545 E. Bute Street, 555 Fenchurch Street, and 520 Wood Street.**

The followings persons spoke in support of the matter:

St John's AME Pastor, John Burton, 690 Redmill Road, Shurl Montgomery, 1323 Windsor Point Road, Sandra Anthony, 2148 Lloyd Drive, Chesapeake, Emily Spivey, 270 West York Street and Sarah Foley, 940 West Princess Anne Road.

The followings persons spoke in opposition to the matter:

Cynthia Garrett, 3556 Riverside Drive and James Watson, 703 East Virginia Beach Boulevard.

The followings persons were present to answer questions:

Mary Miller, 223 East City Hall Avenue and Tom Johnson 440 Monticello Avenue.

Thereupon, an Ordinance entitled, "An Ordinance to rezone properties located at **523 and 545 East Bute Street, 555 Fenchurch Street, and 520 Wood Street** from C-2 (Corridor Commercial) District to D-2 (Downtown Regional Center) District," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley and Frain.

No: None.

Abstained: Winn.

Mr. Winn abstained due to his business occasionally doing landscaping work for the applicant.

PH-5

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **City of Norfolk**, for the closing, vacating and discontinuing portions of **Fox Lane** from the eastern line of **Posey Lane** to the southern line of **E. Bute Street** and the northern line of **Wood Street**.

Mary Miller, 223 East City Hall Avenue, was present to answer questions.

Pastor John Burton, 690 Redmill Road, and officers of St. John's AME Church were present to support the matter.

Thereupon, an Ordinance entitled, "An Ordinance closing, vacating and discontinuing a portion of **Posey Lane** from the southern line of **Bute Street** southerly to the northern line of **Wood Street**, and a portion of **Fox Lane** from the eastern line of **Posey Lane** easterly and northerly to the southern line of **Bute Street**, contingent upon the satisfaction of certain condition," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley and Fraim.

No: None.

Abstained: Winn.

Mr. Winn abstained due to his business occasionally doing landscaping work for the applicant.

PH-6

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **3J, LLC**, for a change of zoning from R-4 (Single-Family) District to Conditional R-6 (Single-Family) District at **1202 Land Street**.

Castle Craddock, 1215 Land Street, spoke in opposition to the matter.

ACTION: Referred back to the Planning Commission.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

CONSENT AGENDA

C-1 Letter from the City Clerk transmitting an **Abstract of Votes** cast in the City of Norfolk at the General Election on November 3, 2015, pursuant to **Section 24.2-675** of the *Code of Virginia*.

ACTION: Received and filed.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

REGULAR AGENDA

R-1 Matter of a letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain **Section 22-7 and Subsection (C) of Section 22-31** relating to hotel guest registries **SO AS TO** provide for obtaining an administrative search warrant to inspect the guest register if consent to inspect is denied," was introduced in writing and read by its title.
(PASSED BY AT THE MEETING OF OCTOBER 27, 2015)

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-2 Matter of a letter from the City Manager and an Ordinance entitled, "An Ordinance to amend and reordain **Subsection (D) of Section 6.1-77 SO AS TO** prohibit **tethering of animals** unless the owner or custodian is outside with the animal," was introduced in writing and read by its title.
(PASSED BY AT THE MEETING OF NOVEMBER 17, 2015)

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-3

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named ‘**Sakura Sushi Bar**’ on property located at **4300 Monarch Way**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-4

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named ‘**Taj Indian Restaurant**’ on property located at **4136 Granby Street**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-5

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named ‘**Teppanyaki Grill & Buffett**’ on property located at **7525 Tidewater Drive, Suite 18**,” was introduced in writing and read by its title.

Crystal Stump, 1807 South Church Street, Smithfield, VA, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-6

Letter from the City Manager and an Ordinance entitled, “An Ordinance permitting **John G. Baker** and **Kathleen E. Carter** to encroach into the right-of-way of **Carillo Avenue**, along the sideyard of the property located at **1368 Magnolia Avenue**, to erect a four foot **(4’) picket fence**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-7

Letter from the City Manager and an Ordinance entitled, “An Ordinance permitting the **Rosemyr Corporation** to encroach into the right-of-way at **725 W. 21st Street** with a sign,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-8

Letter from the City Manager and an Ordinance entitled, “An Ordinance authorizing the **City Manager** to enter into **Right of Entry Agreements** with the owners of certain parcels of property located in the **Willoughby Beach** area for the purpose of sand dune restoration and the enhancement of storm damage protection,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-9

Letter from the City Manager and a Resolution entitled, “A Resolution to initiate the process of vacating a portion of **Powhatan Avenue**,” was introduced in writing and read by its title.

Ellis James, 2021 Kenlake Place, spoke concerning this matter.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-10

Letter from the City Manager and an Ordinance entitled, “An Ordinance authorizing the **Director of Finance** to credit various accounts of the **Department of Utilities** in the total amount of \$753,971.09 **SO AS TO** reflect uncollectible balances for **Fiscal Year 2012**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-11

Letter from the City Manager and an Ordinance entitled, “An Ordinance changing the name of that portion of **East Ocean View Avenue** located between **21st Bay Street** and **30th Bay Street to East Beach Drive**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-12

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting a grant award of \$918,005.00 from the **Federal Emergency Management Agency** to provide funds to elevate four **(4) flood-prone private properties** and appropriating and authorizing expenditure of the grant funds for the elevation project,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-13

Letter from the City Manager and an Ordinance entitled, “An Ordinance to amend and reordain **Section 4-11 SO AS TO** shorten the retention period for unclaimed articles to be held at the airport,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-14

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the City Treasurer to issue a refund to **BMF United, Inc.** **\$3,169.54** plus interest based upon the overpayment of business license tax for the Year 2015,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-15

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting a grant in the amount of \$30,768 from the **Bureau of Justice Assistance** for the **FY2014 State Criminal Alien Assistance Program** and appropriating and authorizing the expenditure of the grant funds by the **Sheriff** for various program purposes,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-16

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the terms and conditions of a **Portability of Service Agreement** between the **City of Norfolk** and the **City of Roanoke** for **Retirement System Portability** and authorizing the execution and implementation of the **Agreement**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-17

Letter from the City Manager and a Resolution entitled, “A Resolution supporting the **2016 Legislative Priorities** for the City of Norfolk,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-18

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** authorizing the operation of an eating and drinking establishment named ‘**Bonchon Chicken**’ on property located at **273 Granby Street**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-19

Letter from the City Manager and a Resolution entitled, “A Resolution supporting **Five Transportation Projects: 1) Ada Ramp Improvements, Phase III, 2) W. Ocean View Flyover, 3) Granby Street/Bayview Boulevard Intersection, 4) Granby Street Bike Lane, and 5) Complete Streets Initiative at Calvary Towers**; and requesting funding of up to \$4,400,000 through the **FY2017 Virginia Department of Transportation Revenue Sharing Program**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

R-20

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting an additional **one-half day** of **holiday** leave to all city employees on **December 24, 2015**.”

ACTION: The Ordinance as introduced was **adopted**, effective December 8, 2015.

Yes: Graves, Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

NEW BUSINESS

1. Vincent Pressley, 810 Tuition Drive, Virginia Beach, came to address Council on a personnel matter and was referred to the City Manager's staff.
2. Danny Lee Ginn, 3844 Dare Circle, commented on good government.